
ENGROSSED HOUSE BILL 3159

State of Washington 59th Legislature 2006 Regular Session

By Representatives Linville, Newhouse, Grant, Kessler, Orcutt,
Chandler, Dunn and Kristiansen

Read first time 01/23/2006. Referred to Committee on Finance.

1 AN ACT Relating to the excise taxation of food products; amending
2 RCW 82.04.4266, 82.32.610, 82.74.010, 82.74.030, 82.74.040, 82.74.050,
3 82.08.820, 82.08.820, 82.08.820, 82.12.820, 82.32.600, and 82.32.590;
4 reenacting and amending RCW 82.04.260; adding new sections to chapter
5 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new
6 section to chapter 82.12 RCW; providing effective dates; and providing
7 expiration dates.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
10 to read as follows:

- 11 (1) This chapter shall not apply to the:
- 12 (a) Manufacturing of dairy products; or
- 13 (b) Selling of manufactured dairy products to purchasers who
14 transport in the ordinary course of business the goods out of this
15 state. A person taking an exemption under this subsection (1)(b) must
16 keep and preserve records for the period required by RCW 82.32.070
17 establishing that the goods were transported by the purchaser in the
18 ordinary course of business out of this state.

1 (2) "Dairy products" means dairy products that as of September 20,
2 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
3 including byproducts from the manufacturing of the dairy products such
4 as whey and casein.

5 (3) This section expires July 1, 2012.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
7 to read as follows:

8 (1) This chapter does not apply to the:

9 (a) Manufacturing of seafood products that remain in a raw, raw
10 frozen, or raw salted state at the completion of the manufacturing by
11 that person; or

12 (b) Selling of the manufactured seafood products that remain in a
13 raw, raw frozen, or raw salted state to purchasers who transport in the
14 ordinary course of business the goods out of this state. A person
15 taking an exemption under this subsection (1)(b) must keep and preserve
16 records for the period required by RCW 82.32.070 establishing that the
17 goods were transported by the purchaser in the ordinary course of
18 business out of this state.

19 (2) This section expires July 1, 2012.

20 **Sec. 3.** RCW 82.04.4266 and 2005 c 513 s 1 are each amended to read
21 as follows:

22 (1) This chapter shall not apply to ((amounts received from)) the:
23 ((+1)) (a) Canning, preserving, freezing, processing, or
24 dehydrating fresh fruits and vegetables; or
25 ((+2)) (b) Selling at wholesale fresh fruits and vegetables
26 canned, preserved, frozen, processed, or dehydrated by the seller and
27 sold to purchasers who transport in the ordinary course of business the
28 goods out of this state. ((As proof of sale to a person who transports
29 in the ordinary course of business goods out of this state, the seller
30 shall annually provide a statement in a form prescribed by the
31 department and retain the statement as a business record.)) A person
32 taking an exemption under this subsection (1)(b) must keep and preserve
33 records for the period required by RCW 82.32.070 establishing that the
34 goods were transported by the purchaser in the ordinary course of
35 business out of this state.

36 (2) This section expires July 1, 2012.

1 **Sec. 4.** RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are
2 each reenacted and amended to read as follows:

3 (1) Upon every person engaging within this state in the business of
4 manufacturing:

5 (a) Wheat into flour, barley into pearl barley, soybeans into
6 soybean oil, canola into canola oil, canola meal, or canola byproducts,
7 or sunflower seeds into sunflower oil; as to such persons the amount of
8 tax with respect to such business shall be equal to the value of the
9 flour, pearl barley, oil, canola meal, or canola byproduct
10 manufactured, multiplied by the rate of 0.138 percent;

11 (b) Beginning July 1, 2012, seafood products which remain in a raw,
12 raw frozen, or raw salted state at the completion of the manufacturing
13 by that person; as to such persons the amount of tax with respect to
14 such business shall be equal to the value of the products manufactured
15 or the gross proceeds derived from such sales, multiplied by the rate
16 of 0.138 percent;

17 (c) Beginning July 1, 2012, dairy products that as of September 20,
18 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
19 including byproducts from the manufacturing of the dairy products such
20 as whey and casein; or selling the same to purchasers who transport in
21 the ordinary course of business the goods out of state; as to such
22 persons the tax imposed shall be equal to the value of the products
23 manufactured or the gross proceeds derived from such sales multiplied
24 by the rate of 0.138 percent. (~~As proof of sale to a person who~~
25 ~~transports in the ordinary course of business goods out of this state,~~
26 ~~the seller shall annually provide a statement in a form prescribed by~~
27 ~~the department and retain the statement as a business record)) Sellers
28 must keep and preserve records for the period required by RCW 82.32.070
29 establishing that the goods were transported by the purchaser in the
30 ordinary course of business out of this state;~~

31 (d) Beginning July 1, 2012, fresh fruits and/or vegetables by
32 canning, preserving, freezing, processing, or dehydrating, or selling
33 at wholesale fresh fruits and vegetables canned, preserved, frozen,
34 processed, or dehydrated by the seller and sold to purchasers who
35 transport in the ordinary course of business the goods out of this
36 state; as to such persons the amount of tax with respect to such
37 business shall be equal to the value of the products manufactured or
38 the gross proceeds derived from such sales multiplied by the rate of

1 0.138 percent. Sellers must keep and preserve records for the period
2 required by RCW 82.32.070 establishing that the goods were transported
3 by the purchaser in the ordinary course of business out of this state;

4 ~~((d))~~ (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or
5 biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as
6 to such persons the amount of tax with respect to the business shall be
7 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel
8 feedstock manufactured, multiplied by the rate of 0.138 percent; and

9 ~~((e))~~ (f) Alcohol fuel or wood biomass fuel, as those terms are
10 defined in RCW 82.29A.135; as to such persons the amount of tax with
11 respect to the business shall be equal to the value of alcohol fuel or
12 wood biomass fuel manufactured, multiplied by the rate of 0.138
13 percent.

14 (2) Upon every person engaging within this state in the business of
15 splitting or processing dried peas; as to such persons the amount of
16 tax with respect to such business shall be equal to the value of the
17 peas split or processed, multiplied by the rate of 0.138 percent.

18 (3) Upon every nonprofit corporation and nonprofit association
19 engaging within this state in research and development, as to such
20 corporations and associations, the amount of tax with respect to such
21 activities shall be equal to the gross income derived from such
22 activities multiplied by the rate of 0.484 percent.

23 (4) Upon every person engaging within this state in the business of
24 slaughtering, breaking and/or processing perishable meat products
25 and/or selling the same at wholesale only and not at retail; as to such
26 persons the tax imposed shall be equal to the gross proceeds derived
27 from such sales multiplied by the rate of 0.138 percent.

28 (5) Upon every person engaging within this state in the business of
29 acting as a travel agent or tour operator; as to such persons the
30 amount of the tax with respect to such activities shall be equal to the
31 gross income derived from such activities multiplied by the rate of
32 0.275 percent.

33 (6) Upon every person engaging within this state in business as an
34 international steamship agent, international customs house broker,
35 international freight forwarder, vessel and/or cargo charter broker in
36 foreign commerce, and/or international air cargo agent; as to such
37 persons the amount of the tax with respect to only international

1 activities shall be equal to the gross income derived from such
2 activities multiplied by the rate of 0.275 percent.

3 (7) Upon every person engaging within this state in the business of
4 stevedoring and associated activities pertinent to the movement of
5 goods and commodities in waterborne interstate or foreign commerce; as
6 to such persons the amount of tax with respect to such business shall
7 be equal to the gross proceeds derived from such activities multiplied
8 by the rate of 0.275 percent. Persons subject to taxation under this
9 subsection shall be exempt from payment of taxes imposed by chapter
10 82.16 RCW for that portion of their business subject to taxation under
11 this subsection. Stevedoring and associated activities pertinent to
12 the conduct of goods and commodities in waterborne interstate or
13 foreign commerce are defined as all activities of a labor, service or
14 transportation nature whereby cargo may be loaded or unloaded to or
15 from vessels or barges, passing over, onto or under a wharf, pier, or
16 similar structure; cargo may be moved to a warehouse or similar holding
17 or storage yard or area to await further movement in import or export
18 or may move to a consolidation freight station and be stuffed,
19 unstuffed, containerized, separated or otherwise segregated or
20 aggregated for delivery or loaded on any mode of transportation for
21 delivery to its consignee. Specific activities included in this
22 definition are: Wharfage, handling, loading, unloading, moving of
23 cargo to a convenient place of delivery to the consignee or a
24 convenient place for further movement to export mode; documentation
25 services in connection with the receipt, delivery, checking, care,
26 custody and control of cargo required in the transfer of cargo;
27 imported automobile handling prior to delivery to consignee; terminal
28 stevedoring and incidental vessel services, including but not limited
29 to plugging and unplugging refrigerator service to containers,
30 trailers, and other refrigerated cargo receptacles, and securing ship
31 hatch covers.

32 (8) Upon every person engaging within this state in the business of
33 disposing of low-level waste, as defined in RCW 43.145.010; as to such
34 persons the amount of the tax with respect to such business shall be
35 equal to the gross income of the business, excluding any fees imposed
36 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

37 If the gross income of the taxpayer is attributable to activities

1 both within and without this state, the gross income attributable to
2 this state shall be determined in accordance with the methods of
3 apportionment required under RCW 82.04.460.

4 (9) Upon every person engaging within this state as an insurance
5 agent, insurance broker, or insurance solicitor licensed under chapter
6 48.17 RCW; as to such persons, the amount of the tax with respect to
7 such licensed activities shall be equal to the gross income of such
8 business multiplied by the rate of 0.484 percent.

9 (10) Upon every person engaging within this state in business as a
10 hospital, as defined in chapter 70.41 RCW, that is operated as a
11 nonprofit corporation or by the state or any of its political
12 subdivisions, as to such persons, the amount of tax with respect to
13 such activities shall be equal to the gross income of the business
14 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
15 percent thereafter. The moneys collected under this subsection shall
16 be deposited in the health services account created under RCW
17 43.72.900.

18 (11)(a) Beginning October 1, 2005, upon every person engaging
19 within this state in the business of manufacturing commercial
20 airplanes, or components of such airplanes, as to such persons the
21 amount of tax with respect to such business shall, in the case of
22 manufacturers, be equal to the value of the product manufactured, or in
23 the case of processors for hire, be equal to the gross income of the
24 business, multiplied by the rate of:

25 (i) 0.4235 percent from October 1, 2005, through the later of June
26 30, 2007, or the day preceding the date final assembly of a
27 superefficient airplane begins in Washington state, as determined under
28 RCW 82.32.550; and

29 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
30 date final assembly of a superefficient airplane begins in Washington
31 state, as determined under RCW 82.32.550.

32 (b) Beginning October 1, 2005, upon every person engaging within
33 this state in the business of making sales, at retail or wholesale, of
34 commercial airplanes, or components of such airplanes, manufactured by
35 that person, as to such persons the amount of tax with respect to such
36 business shall be equal to the gross proceeds of sales of the airplanes
37 or components multiplied by the rate of:

1 (i) 0.4235 percent from October 1, 2005, through the later of June
2 30, 2007, or the day preceding the date final assembly of a
3 superefficient airplane begins in Washington state, as determined under
4 RCW 82.32.550; and

5 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
6 date final assembly of a superefficient airplane begins in Washington
7 state, as determined under RCW 82.32.550.

8 (c) For the purposes of this subsection (11), "commercial
9 airplane," "component," and "final assembly of a superefficient
10 airplane" have the meanings given in RCW 82.32.550.

11 (d) In addition to all other requirements under this title, a
12 person eligible for the tax rate under this subsection (11) must report
13 as required under RCW 82.32.545.

14 (e) This subsection (11) does not apply after the earlier of: July
15 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
16 does not begin by December 31, 2007, as determined under RCW 82.32.550.

17 (12) Upon every person engaging within this state in inspecting,
18 testing, labeling, and storing canned salmon owned by another person,
19 as to such persons, the amount of tax with respect to such activities
20 shall be equal to the gross income derived from such activities
21 multiplied by the rate of 0.484 percent.

22 **Sec. 5.** RCW 82.32.610 and 2005 c 513 s 3 are each amended to read
23 as follows:

24 (1) The legislature finds that accountability and effectiveness are
25 important aspects of setting tax policy. In order to make policy
26 choices regarding the best use of limited state resources the
27 legislature needs information on how a tax incentive is used.

28 (2) Each person claiming a tax exemption under RCW 82.04.4266,
29 section 1 of this act, or section 2 of this act shall report
30 information to the department by filing a complete annual survey. The
31 survey is due by March 31st of the year following any calendar year in
32 which a tax exemption under RCW 82.04.4266, section 1 of this act, or
33 section 2 of this act is taken. The department may extend the due date
34 for timely filing of annual surveys under this section as provided in
35 RCW 82.32.590. The survey shall include the amount of tax exemption
36 taken. The survey shall also include the following information for
37 employment positions in Washington:

1 (a) The number of total employment positions;
2 (b) Full-time, part-time, and temporary employment positions as a
3 percent of total employment;
4 (c) The number of employment positions according to the following
5 wage bands: Less than thirty thousand dollars; thirty thousand dollars
6 or greater, but less than sixty thousand dollars; and sixty thousand
7 dollars or greater. A wage band containing fewer than three
8 individuals may be combined with another wage band; and
9 (d) The number of employment positions that have employer-provided
10 medical, dental, and retirement benefits, by each of the wage bands.
11 The first survey filed under this subsection shall also include
12 information for the twelve-month period immediately before first use of
13 a tax incentive.
14 (3) The department may request additional information necessary to
15 measure the results of the exemption program, to be submitted at the
16 same time as the survey.
17 (4) All information collected under this section, except the amount
18 of the tax exemption taken, is deemed taxpayer information under RCW
19 82.32.330. Information on the amount of tax exemption taken is not
20 subject to the confidentiality provisions of RCW 82.32.330.
21 (5) If a person fails to submit an annual survey under subsection
22 (2) of this section by the due date of the (~~report~~) survey or any
23 extension under RCW 82.32.590, the department shall declare the amount
24 of taxes exempted for the previous calendar year to be immediately due
25 and payable. The department shall assess interest, but not penalties,
26 on the amounts due under this section. The amount due shall be
27 calculated using a rate of 0.138 percent. The interest shall be
28 assessed at the rate provided for delinquent taxes under this chapter,
29 retroactively to the date the exemption was claimed, and shall accrue
30 until the taxes for which the exemption was claimed are repaid. This
31 information is not subject to the confidentiality provisions of RCW
32 82.32.330.
33 (6) The department shall use the information from this section to
34 prepare summary descriptive statistics by category. No fewer than
35 three taxpayers shall be included in any category. The department
36 shall report these statistics to the legislature each year by September
37 1st.

1 (7) The department shall study the tax exemption authorized in RCW
2 82.04.4266, section 1 of this act, and section 2 of this act. The
3 department shall submit a report to the finance committee of the house
4 of representatives and the ways and means committee of the senate by
5 December 1, 2011. The report shall measure the effect of the exemption
6 on job creation, job retention, company growth, the movement of firms
7 or the consolidation of firms' operations into the state, and such
8 other factors as the department selects.

9 **Sec. 6.** RCW 82.74.010 and 2005 c 513 s 4 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Applicant" means a person applying for a tax deferral under
14 this chapter.

15 (2) "Cold storage warehouse" means a storage warehouse (~~used~~)
16 owned or operated by a wholesaler or third-party warehouser as those
17 terms are defined in RCW 82.08.820 to store fresh and/or frozen
18 perishable fruits or vegetables, dairy products, seafood products, or
19 any combination thereof, at a desired temperature to maintain the
20 quality of the product for orderly marketing.

21 (3) "Dairy product" means dairy products that as of September 20,
22 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
23 including byproducts from the manufacturing of the dairy products such
24 as whey and casein.

25 (4) "Dairy product manufacturing" means manufacturing, as defined
26 in RCW 82.04.120, of dairy products.

27 (5) "Department" means the department of revenue.

28 (~~(4)~~) (6) "Eligible investment project" means an investment in
29 qualified buildings or qualified machinery and equipment, including
30 labor and services rendered in the planning, installation, and
31 construction of the project. The lessor or owner of a qualified
32 building is not eligible for a deferral unless (a) the underlying
33 ownership of the buildings, machinery, and equipment vests exclusively
34 in the same person; or (b)(i) the lessor by written contract agrees to
35 pass the economic benefit of the deferral to the lessee in the form of
36 reduced rent payments, and (ii) the lessee that receives the economic
37 benefit of the deferral agrees in writing with the department to

1 complete the annual survey under RCW 82.74.040. The economic benefit
2 of the deferral to the lessee may be evidenced by any type of payment,
3 credit, or any other financial arrangement between the lessor or owner
4 of the qualified building and the lessee.

5 ~~((+5+))~~ (7) "Fresh fruit and vegetable processing" means
6 manufacturing as defined in RCW 82.04.120 which consists of the
7 canning, preserving, freezing, processing, or dehydrating fresh fruits
8 and/or vegetables.

9 ~~((+6+))~~ (8)(a) "Initiation of construction" means the date that a
10 building permit is issued under the building code adopted under RCW
11 19.27.031 for:

12 (i) Construction of the qualified building, if the underlying
13 ownership of the building vests exclusively with the person receiving
14 the economic benefit of the deferral;

15 (ii) Construction of the qualified building, if the economic
16 benefits of the deferral are passed to a lessee as provided in
17 subsection ~~((+4+))~~ (6) of this section; or

18 (iii) Tenant improvements for a qualified building, if the economic
19 benefits of the deferral are passed to a lessee as provided in
20 subsection ~~((+4+))~~ (6) of this section.

21 (b) "Initiation of construction" does not include soil testing,
22 site clearing and grading, site preparation, or any other related
23 activities that are initiated before the issuance of a building permit
24 for the construction of the foundation of the building.

25 (c) If the investment project is a phased project, "initiation of
26 construction" applies separately to each phase.

27 ~~((+7+))~~ (9) "Person" has the meaning given in RCW 82.04.030.

28 ~~((+8+))~~ (10) "Qualified buildings" means construction of new
29 structures, and expansion or renovation of existing structures for the
30 purpose of increasing floor space or production capacity used for fresh
31 fruit and vegetable processing, dairy product manufacturing, seafood
32 product manufacturing, cold storage ~~((warehouse))~~ warehousing, and
33 research and development activities, including plant offices and
34 warehouses or other facilities for the storage of raw material or
35 finished goods if such facilities are an essential or an integral part
36 of a factory, plant, or laboratory used for fresh fruit and vegetable
37 processing, dairy product manufacturing, seafood product manufacturing,
38 cold storage warehousing, or research and development. If a building

1 is used partly for fresh fruit and vegetable processing, dairy product
2 manufacturing, seafood product manufacturing, cold storage warehousing,
3 or research and development and partly for other purposes, the
4 applicable tax deferral shall be determined by apportionment of the
5 costs of construction under rules adopted by the department.

6 ~~((9))~~ (11) "Qualified machinery and equipment" means all
7 industrial and research fixtures, equipment, and support facilities
8 that are an integral and necessary part of a fresh fruit and vegetable
9 processing, dairy product manufacturing, seafood product manufacturing,
10 cold storage warehouse, or research and development operation.
11 "Qualified machinery and equipment" includes: Computers; software;
12 data processing equipment; laboratory equipment; manufacturing
13 components such as belts, pulleys, shafts, and moving parts; molds,
14 tools, and dies; operating structures; and all equipment used to
15 control or operate the machinery.

16 ~~((10))~~ (12) "Recipient" means a person receiving a tax deferral
17 under this chapter.

18 ~~((11))~~ (13) "Research and development" means the development,
19 refinement, testing, marketing, and commercialization of a product,
20 service, or process related to fresh fruit and vegetable processing,
21 dairy product manufacturing, seafood product manufacturing, or cold
22 storage warehousing before commercial sales have begun. As used in
23 this subsection, "commercial sales" excludes sales of prototypes or
24 sales for market testing if the total gross receipts from such sales of
25 the product, service, or process do not exceed one million dollars.

26 (14) "Seafood product" means any edible marine fish and shellfish
27 that remains in a raw, raw frozen, or raw salted state.

28 (15) "Seafood product manufacturing" means the manufacturing, as
29 defined in RCW 82.04.120, of seafood products.

30 **Sec. 7.** RCW 82.74.030 and 2005 c 513 s 6 are each amended to read
31 as follows:

32 (1) The department shall issue a sales and use tax deferral
33 certificate for state and local sales and use taxes ~~((due))~~ imposed or
34 authorized under chapters 82.08, 82.12, and 82.14 RCW on each eligible
35 investment project if the investment project is undertaken for the
36 purpose of fresh fruit and vegetable processing, dairy product

1 manufacturing, seafood product manufacturing, cold storage warehousing,
2 or research and development.

3 (2) This section expires July 1, 2012.

4 **Sec. 8.** RCW 82.74.040 and 2005 c 513 s 7 are each amended to read
5 as follows:

6 (1)(a) The legislature finds that accountability and effectiveness
7 are important aspects of setting tax policy. In order to make policy
8 choices regarding the best use of limited state resources the
9 legislature needs information on how a tax incentive is used.

10 (b) Each recipient of a deferral granted under this chapter shall
11 complete an annual survey. If the economic benefits of the deferral
12 are passed to a lessee as provided in RCW 82.74.010(~~(4)~~) (6), the
13 lessee shall complete the annual survey and the applicant is not
14 required to complete the annual survey. The survey is due by March
15 31st of the year following the calendar year in which the investment
16 project is certified by the department as having been operationally
17 complete and each of the seven succeeding calendar years. The
18 department may extend the due date for timely filing of annual surveys
19 under this section as provided in RCW 82.32.590. The survey shall
20 include the amount of tax deferred. The survey shall also include the
21 following information for employment positions in Washington:

- 22 (i) The number of total employment positions;
- 23 (ii) Full-time, part-time, and temporary employment positions as a
24 percent of total employment;
- 25 (iii) The number of employment positions according to the following
26 wage bands: Less than thirty thousand dollars; thirty thousand dollars
27 or greater, but less than sixty thousand dollars; and sixty thousand
28 dollars or greater. A wage band containing fewer than three
29 individuals may be combined with another wage band; and

30 (iv) The number of employment positions that have employer-provided
31 medical, dental, and retirement benefits, by each of the wage bands.

32 (c) The department may request additional information necessary to
33 measure the results of the deferral program, to be submitted at the
34 same time as the survey.

35 (d) All information collected under this subsection, except the
36 amount of the tax deferral taken, is deemed taxpayer information under

1 RCW 82.32.330. Information on the amount of tax deferral taken is not
2 subject to the confidentiality provisions of RCW 82.32.330 and may be
3 disclosed to the public upon request.

4 (e) The department shall use the information from this section to
5 prepare summary descriptive statistics by category. No fewer than
6 three taxpayers shall be included in any category. The department
7 shall report these statistics to the legislature each year by September
8 1st.

9 (f) The department shall also use the information to study the tax
10 deferral program authorized under this chapter. The department shall
11 report to the legislature by December 1, 2011. The report shall
12 measure the effect of the program on job creation, (~~the number of jobs~~
13 ~~created for residents of eligible areas,~~) company growth, the
14 introduction of new products, the diversification of the state's
15 economy, growth in research and development investment, the movement of
16 firms or the consolidation of firms' operations into the state, and
17 such other factors as the department selects.

18 (2)(a) If a recipient of the deferral fails to complete the annual
19 survey required under subsection (1) of this section by the date due or
20 any extension under RCW 82.32.590, twelve and one-half percent of the
21 deferred tax shall be immediately due. If the economic benefits of the
22 deferral are passed to a lessee as provided in RCW 82.74.010(~~(+4)~~)
23 (6), the lessee shall be responsible for payment to the extent the
24 lessee has received the economic benefit. The department shall assess
25 interest, but not penalties, on the amounts due under this section.
26 The interest shall be assessed at the rate provided for delinquent
27 taxes under chapter 82.32 RCW, and shall accrue until the amounts due
28 are repaid.

29 (b) A recipient who must repay deferred taxes under RCW
30 82.74.050(2) because the department has found that an investment
31 project is used for purposes other than fresh fruit and vegetable
32 processing, dairy product manufacturing, seafood product manufacturing,
33 cold storage warehousing, or research and development is no longer
34 required to file annual surveys under this section beginning on the
35 date an investment project is used for nonqualifying purposes.

36 **Sec. 9.** RCW 82.74.050 and 2005 c 513 s 8 are each amended to read
37 as follows:

1 (1) Except as provided in subsection (2) of this section, taxes
2 deferred under this chapter need not be repaid.

3 (2) If, on the basis of survey under RCW 82.74.040 or other
4 information, the department finds that an investment project is used
5 for purposes other than fresh fruit and vegetable processing, dairy
6 product manufacturing, seafood product manufacturing, cold storage
7 warehousing, or research and development at any time during the
8 calendar year in which the investment project is certified by the
9 department as having been operationally completed, or at any time
10 during any of the seven succeeding calendar years, a portion of
11 deferred taxes shall be immediately due according to the following
12 schedule:

13	Year in which <u>nonqualifying</u> use occurs	% of deferred taxes due
14	1	100%
15	2	87.5%
16	3	75%
17	4	62.5%
18	5	50%
19	6	37.5%
20	7	25%
21	8	12.5%

22 (3) The department shall assess interest, but not penalties, on the
23 deferred taxes under subsection (2) of this section. The interest
24 shall be assessed at the rate provided for delinquent taxes under
25 chapter 82.32 RCW, retroactively to the date of deferral, and shall
26 accrue until the deferred taxes are repaid. The debt for deferred
27 taxes will not be extinguished by insolvency or other failure of the
28 recipient. Transfer of ownership does not terminate the deferral. The
29 deferral is transferred, subject to the successor meeting the
30 eligibility requirements of this chapter, for the remaining periods of
31 the deferral.

32 (4) Notwithstanding subsection (2) of this section, deferred taxes
33 on the following need not be repaid:

34 (a) Machinery and equipment, and sales of or charges made for labor
35 and services, which at the time of purchase would have qualified for
36 exemption under RCW 82.08.02565; and

1 (b) Machinery and equipment which at the time of first use would
2 have qualified for exemption under RCW 82.12.02565.

3 **Sec. 10.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read
4 as follows:

5 (1) Wholesalers or third-party warehouseers who own or operate
6 warehouses or grain elevators and retailers who own or operate
7 distribution centers, and who have paid the tax levied by RCW 82.08.020
8 on:

9 (a) Material-handling and racking equipment, and labor and services
10 rendered in respect to installing, repairing, cleaning, altering, or
11 improving the equipment; or

12 (b) Construction of a warehouse or grain elevator, including
13 materials, and including service and labor costs,
14 are eligible for an exemption in the form of a remittance. The amount
15 of the remittance is computed under subsection (3) of this section and
16 is based on the state share of sales tax.

17 (2) For purposes of this section and RCW 82.12.820:

18 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

19 (b) "Construction" means the actual construction of a warehouse or
20 grain elevator that did not exist before the construction began.
21 "Construction" includes expansion if the expansion adds at least two
22 hundred thousand square feet of additional space to an existing
23 warehouse or additional storage capacity of at least one million
24 bushels to an existing grain elevator. "Construction" does not include
25 renovation, remodeling, or repair;

26 (c) "Department" means the department of revenue;

27 (d) "Distribution center" means a warehouse that is used
28 exclusively by a retailer solely for the storage and distribution of
29 finished goods to retail outlets of the retailer. "Distribution
30 center" does not include a warehouse at which retail sales occur;

31 (e) "Finished goods" means tangible personal property intended for
32 sale by a retailer or wholesaler. "Finished goods" does not include
33 agricultural products stored by wholesalers, third-party warehouses, or
34 retailers if the storage takes place on the land of the person who
35 produced the agricultural product. "Finished goods" does not include
36 logs, minerals, petroleum, gas, or other extracted products stored as
37 raw materials or in bulk;

1 (f) "Grain elevator" means a structure used for storage and
2 handling of grain in bulk;

3 (g) "Material-handling equipment and racking equipment" means
4 equipment in a warehouse or grain elevator that is primarily used to
5 handle, store, organize, convey, package, or repackage finished goods.
6 The term includes tangible personal property with a useful life of one
7 year or more that becomes an ingredient or component of the equipment,
8 including repair and replacement parts. The term does not include
9 equipment in offices, lunchrooms, restrooms, and other like space,
10 within a warehouse or grain elevator, or equipment used for
11 nonwarehousing purposes. "Material-handling equipment" includes but is
12 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
13 place units, cranes, hoists, mechanical arms, and robots; mechanized
14 systems, including containers that are an integral part of the system,
15 whose purpose is to lift or move tangible personal property; and
16 automated handling, storage, and retrieval systems, including computers
17 that control them, whose purpose is to lift or move tangible personal
18 property; and forklifts and other off-the-road vehicles that are used
19 to lift or move tangible personal property and that cannot be operated
20 legally on roads and streets. "Racking equipment" includes, but is not
21 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
22 pallets, and other containers and storage devices that form a necessary
23 part of the storage system;

24 (h) "Person" has the meaning given in RCW 82.04.030;

25 (i) "Retailer" means a person who makes "sales at retail" as
26 defined in chapter 82.04 RCW of tangible personal property;

27 (j) "Square footage" means the product of the two horizontal
28 dimensions of each floor of a specific warehouse. The entire footprint
29 of the warehouse shall be measured in calculating the square footage,
30 including space that juts out from the building profile such as loading
31 docks. "Square footage" does not mean the aggregate of the square
32 footage of more than one warehouse at a location or the aggregate of
33 the square footage of warehouses at more than one location;

34 (k) "Third-party warehouser" means a person taxable under RCW
35 82.04.280(4);

36 (l) "Warehouse" means an enclosed building or structure in which
37 finished goods are stored. A warehouse building or structure may have
38 more than one storage room and more than one floor. Office space,

1 lunchrooms, restrooms, and other space within the warehouse and
2 necessary for the operation of the warehouse are considered part of the
3 warehouse as are loading docks and other such space attached to the
4 building and used for handling of finished goods. Landscaping and
5 parking lots are not considered part of the warehouse. A storage yard
6 is not a warehouse, nor is a building in which manufacturing takes
7 place; and

8 (m) "Wholesaler" means a person who makes "sales at wholesale" as
9 defined in chapter 82.04 RCW of tangible personal property, but
10 "wholesaler" does not include a person who makes sales exempt under RCW
11 82.04.330.

12 (3)(a) A person claiming an exemption from state tax in the form of
13 a remittance under this section must pay the tax imposed by RCW
14 82.08.020. The buyer may then apply to the department for remittance
15 of all or part of the tax paid under RCW 82.08.020. For grain
16 elevators with bushel capacity of one million but less than two
17 million, the remittance is equal to fifty percent of the amount of tax
18 paid. For warehouses with square footage of two hundred thousand or
19 more and for grain elevators with bushel capacity of two million or
20 more, the remittance is equal to one hundred percent of the amount of
21 tax paid for qualifying construction, materials, service, and labor,
22 and fifty percent of the amount of tax paid for qualifying material-
23 handling equipment and racking equipment, and labor and services
24 rendered in respect to installing, repairing, cleaning, altering, or
25 improving the equipment.

26 (b) The department shall determine eligibility under this section
27 based on information provided by the buyer and through audit and other
28 administrative records. The buyer shall on a quarterly basis submit an
29 information sheet, in a form and manner as required by the department
30 by rule, specifying the amount of exempted tax claimed and the
31 qualifying purchases or acquisitions for which the exemption is
32 claimed. The buyer shall retain, in adequate detail to enable the
33 department to determine whether the equipment or construction meets the
34 criteria under this section: Invoices; proof of tax paid; documents
35 describing the material-handling equipment and racking equipment;
36 location and size of warehouses and grain elevators; and construction
37 invoices and documents.

1 (c) The department shall on a quarterly basis remit exempted
2 amounts to qualifying persons who submitted applications during the
3 previous quarter.

4 (4) Warehouses, grain elevators, and material-handling equipment
5 and racking equipment for which an exemption, credit, or deferral has
6 been or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or
7 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
8 remittance under this section. Warehouses and grain elevators upon
9 which construction was initiated before May 20, 1997, are not eligible
10 for a remittance under this section.

11 (5) The lessor or owner of a warehouse or grain elevator is not
12 eligible for a remittance under this section unless the underlying
13 ownership of the warehouse or grain elevator and the material-handling
14 equipment and racking equipment vests exclusively in the same person,
15 or unless the lessor by written contract agrees to pass the economic
16 benefit of the remittance to the lessee in the form of reduced rent
17 payments.

18 **Sec. 11.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to
19 read as follows:

20 (1) Wholesalers or third-party warehouse owners who own or operate
21 warehouses or grain elevators and retailers who own or operate
22 distribution centers, and who have paid the tax levied by RCW 82.08.020
23 on:

24 (a) Material-handling and racking equipment, and labor and services
25 rendered in respect to installing, repairing, cleaning, altering, or
26 improving the equipment; or

27 (b) Construction of a warehouse or grain elevator, including
28 materials, and including service and labor costs,
29 are eligible for an exemption in the form of a remittance. The amount
30 of the remittance is computed under subsection (3) of this section and
31 is based on the state share of sales tax.

32 (2) For purposes of this section and RCW 82.12.820:

33 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

34 (b) "Cold storage warehouse" (~~means a storage warehouse used to~~
35 ~~store fresh and/or frozen perishable fruits or vegetables, or any~~
36 ~~combination thereof, at a desired temperature to maintain the quality~~

1 ~~of the product for orderly marketing))~~ has the meaning provided in RCW
2 82.74.010;

3 (c) "Construction" means the actual construction of a warehouse or
4 grain elevator that did not exist before the construction began.
5 "Construction" includes expansion if the expansion adds at least
6 twenty-five thousand square feet of additional space to an existing
7 cold storage warehouse, at least two hundred thousand square feet of
8 additional space to an existing warehouse other than a cold storage
9 warehouse, or additional storage capacity of at least one million
10 bushels to an existing grain elevator. "Construction" does not include
11 renovation, remodeling, or repair;

12 (d) "Department" means the department of revenue;

13 (e) "Distribution center" means a warehouse that is used
14 exclusively by a retailer solely for the storage and distribution of
15 finished goods to retail outlets of the retailer. "Distribution
16 center" does not include a warehouse at which retail sales occur;

17 (f) "Finished goods" means tangible personal property intended for
18 sale by a retailer or wholesaler. "Finished goods" does not include
19 agricultural products stored by wholesalers, third-party warehouses, or
20 retailers if the storage takes place on the land of the person who
21 produced the agricultural product. "Finished goods" does not include
22 logs, minerals, petroleum, gas, or other extracted products stored as
23 raw materials or in bulk;

24 (g) "Grain elevator" means a structure used for storage and
25 handling of grain in bulk;

26 (h) "Material-handling equipment and racking equipment" means
27 equipment in a warehouse or grain elevator that is primarily used to
28 handle, store, organize, convey, package, or repackage finished goods.
29 The term includes tangible personal property with a useful life of one
30 year or more that becomes an ingredient or component of the equipment,
31 including repair and replacement parts. The term does not include
32 equipment in offices, lunchrooms, restrooms, and other like space,
33 within a warehouse or grain elevator, or equipment used for
34 nonwarehousing purposes. "Material-handling equipment" includes but is
35 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
36 place units, cranes, hoists, mechanical arms, and robots; mechanized
37 systems, including containers that are an integral part of the system,
38 whose purpose is to lift or move tangible personal property; and

1 automated handling, storage, and retrieval systems, including computers
2 that control them, whose purpose is to lift or move tangible personal
3 property; and forklifts and other off-the-road vehicles that are used
4 to lift or move tangible personal property and that cannot be operated
5 legally on roads and streets. "Racking equipment" includes, but is not
6 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
7 pallets, and other containers and storage devices that form a necessary
8 part of the storage system;

9 (i) "Person" has the meaning given in RCW 82.04.030;

10 (j) "Retailer" means a person who makes "sales at retail" as
11 defined in chapter 82.04 RCW of tangible personal property;

12 (k) "Square footage" means the product of the two horizontal
13 dimensions of each floor of a specific warehouse. The entire footprint
14 of the warehouse shall be measured in calculating the square footage,
15 including space that juts out from the building profile such as loading
16 docks. "Square footage" does not mean the aggregate of the square
17 footage of more than one warehouse at a location or the aggregate of
18 the square footage of warehouses at more than one location;

19 (l) "Third-party warehouse" means a person taxable under RCW
20 82.04.280(4);

21 (m) "Warehouse" means an enclosed building or structure in which
22 finished goods are stored. A warehouse building or structure may have
23 more than one storage room and more than one floor. Office space,
24 lunchrooms, restrooms, and other space within the warehouse and
25 necessary for the operation of the warehouse are considered part of the
26 warehouse as are loading docks and other such space attached to the
27 building and used for handling of finished goods. Landscaping and
28 parking lots are not considered part of the warehouse. A storage yard
29 is not a warehouse, nor is a building in which manufacturing takes
30 place; and

31 (n) "Wholesaler" means a person who makes "sales at wholesale" as
32 defined in chapter 82.04 RCW of tangible personal property, but
33 "wholesaler" does not include a person who makes sales exempt under RCW
34 82.04.330.

35 (3)(a) A person claiming an exemption from state tax in the form of
36 a remittance under this section must pay the tax imposed by RCW
37 82.08.020. The buyer may then apply to the department for remittance
38 of all or part of the tax paid under RCW 82.08.020. For grain

1 elevators with bushel capacity of one million but less than two
2 million, the remittance is equal to fifty percent of the amount of tax
3 paid. For warehouses with square footage of two hundred thousand or
4 more, other than cold storage warehouses, and for grain elevators with
5 bushel capacity of two million or more, the remittance is equal to one
6 hundred percent of the amount of tax paid for qualifying construction,
7 materials, service, and labor, and fifty percent of the amount of tax
8 paid for qualifying material-handling equipment and racking equipment,
9 and labor and services rendered in respect to installing, repairing,
10 cleaning, altering, or improving the equipment. For cold storage
11 warehouses with square footage of twenty-five thousand or more, the
12 remittance is equal to one hundred percent of the amount of tax paid
13 for qualifying construction, materials, service, and labor, and one
14 hundred percent of the amount of tax paid for qualifying material-
15 handling equipment and racking equipment, and labor and services
16 rendered in respect to installing, repairing, cleaning, altering, or
17 improving the equipment.

18 (b) The department shall determine eligibility under this section
19 based on information provided by the buyer and through audit and other
20 administrative records. The buyer shall on a quarterly basis submit an
21 information sheet, in a form and manner as required by the department
22 by rule, specifying the amount of exempted tax claimed and the
23 qualifying purchases or acquisitions for which the exemption is
24 claimed. The buyer shall retain, in adequate detail to enable the
25 department to determine whether the equipment or construction meets the
26 criteria under this section: Invoices; proof of tax paid; documents
27 describing the material-handling equipment and racking equipment;
28 location and size of warehouses and grain elevators; and construction
29 invoices and documents.

30 (c) The department shall on a quarterly basis remit exempted
31 amounts to qualifying persons who submitted applications during the
32 previous quarter.

33 (4) Warehouses, grain elevators, and material-handling equipment
34 and racking equipment for which an exemption, credit, or deferral has
35 been or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or
36 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
37 remittance under this section. Warehouses and grain elevators upon

1 which construction was initiated before May 20, 1997, are not eligible
2 for a remittance under this section.

3 (5) The lessor or owner of a warehouse or grain elevator is not
4 eligible for a remittance under this section unless the underlying
5 ownership of the warehouse or grain elevator and the material-handling
6 equipment and racking equipment vests exclusively in the same person,
7 or unless the lessor by written contract agrees to pass the economic
8 benefit of the remittance to the lessee in the form of reduced rent
9 payments.

10 **Sec. 12.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to
11 read as follows:

12 (1) Wholesalers or third-party warehouse owners who own or operate
13 warehouses or grain elevators and retailers who own or operate
14 distribution centers, and who have paid the tax levied by RCW 82.08.020
15 on:

16 (a) Material-handling and racking equipment, and labor and services
17 rendered in respect to installing, repairing, cleaning, altering, or
18 improving the equipment; or

19 (b) Construction of a warehouse or grain elevator, including
20 materials, and including service and labor costs,
21 are eligible for an exemption in the form of a remittance. The amount
22 of the remittance is computed under subsection (3) of this section and
23 is based on the state share of sales tax.

24 (2) For purposes of this section and RCW 82.12.820:

25 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

26 (b) (~~"Cold storage warehouse" means a storage warehouse used to~~
27 ~~store fresh and/or frozen perishable fruits or vegetables, or any~~
28 ~~combination thereof, at a desired temperature to maintain the quality~~
29 ~~of the product for orderly marketing;~~

30 (c)) "Construction" means the actual construction of a warehouse
31 or grain elevator that did not exist before the construction began.
32 "Construction" includes expansion if the expansion adds (~~at least~~
33 ~~twenty five thousand square feet of additional space to an existing~~
34 ~~cold storage warehouse,~~) at least two hundred thousand square feet of
35 additional space to an existing warehouse (~~other than a cold storage~~
36 ~~warehouse,~~) or additional storage capacity of at least one million

1 bushels to an existing grain elevator. "Construction" does not include
2 renovation, remodeling, or repair;

3 ~~((d))~~ (c) "Department" means the department of revenue;

4 ~~((e))~~ (d) "Distribution center" means a warehouse that is used
5 exclusively by a retailer solely for the storage and distribution of
6 finished goods to retail outlets of the retailer. "Distribution
7 center" does not include a warehouse at which retail sales occur;

8 ~~((f))~~ (e) "Finished goods" means tangible personal property
9 intended for sale by a retailer or wholesaler. "Finished goods" does
10 not include agricultural products stored by wholesalers, third-party
11 warehouses, or retailers if the storage takes place on the land of the
12 person who produced the agricultural product. "Finished goods" does
13 not include logs, minerals, petroleum, gas, or other extracted products
14 stored as raw materials or in bulk;

15 ~~((g))~~ (f) "Grain elevator" means a structure used for storage and
16 handling of grain in bulk;

17 ~~((h))~~ (g) "Material-handling equipment and racking equipment"
18 means equipment in a warehouse or grain elevator that is primarily used
19 to handle, store, organize, convey, package, or repackage finished
20 goods. The term includes tangible personal property with a useful life
21 of one year or more that becomes an ingredient or component of the
22 equipment, including repair and replacement parts. The term does not
23 include equipment in offices, lunchrooms, restrooms, and other like
24 space, within a warehouse or grain elevator, or equipment used for
25 nonwarehousing purposes. "Material-handling equipment" includes but is
26 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
27 place units, cranes, hoists, mechanical arms, and robots; mechanized
28 systems, including containers that are an integral part of the system,
29 whose purpose is to lift or move tangible personal property; and
30 automated handling, storage, and retrieval systems, including computers
31 that control them, whose purpose is to lift or move tangible personal
32 property; and forklifts and other off-the-road vehicles that are used
33 to lift or move tangible personal property and that cannot be operated
34 legally on roads and streets. "Racking equipment" includes, but is not
35 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
36 pallets, and other containers and storage devices that form a necessary
37 part of the storage system;

38 ~~((i))~~ (h) "Person" has the meaning given in RCW 82.04.030;

1 ~~((+j))~~ (i) "Retailer" means a person who makes "sales at retail"
2 as defined in chapter 82.04 RCW of tangible personal property;

3 ~~((+k))~~ (j) "Square footage" means the product of the two
4 horizontal dimensions of each floor of a specific warehouse. The
5 entire footprint of the warehouse shall be measured in calculating the
6 square footage, including space that juts out from the building profile
7 such as loading docks. "Square footage" does not mean the aggregate of
8 the square footage of more than one warehouse at a location or the
9 aggregate of the square footage of warehouses at more than one
10 location;

11 ~~((+l))~~ (k) "Third-party warehouse" means a person taxable under
12 RCW 82.04.280(4);

13 ~~((+m))~~ (l) "Warehouse" means an enclosed building or structure in
14 which finished goods are stored. A warehouse building or structure may
15 have more than one storage room and more than one floor. Office space,
16 lunchrooms, restrooms, and other space within the warehouse and
17 necessary for the operation of the warehouse are considered part of the
18 warehouse as are loading docks and other such space attached to the
19 building and used for handling of finished goods. Landscaping and
20 parking lots are not considered part of the warehouse. A storage yard
21 is not a warehouse, nor is a building in which manufacturing takes
22 place; and

23 ~~((+n))~~ (m) "Wholesaler" means a person who makes "sales at
24 wholesale" as defined in chapter 82.04 RCW of tangible personal
25 property, but "wholesaler" does not include a person who makes sales
26 exempt under RCW 82.04.330.

27 (3)(a) A person claiming an exemption from state tax in the form of
28 a remittance under this section must pay the tax imposed by RCW
29 82.08.020. The buyer may then apply to the department for remittance
30 of all or part of the tax paid under RCW 82.08.020. For grain
31 elevators with bushel capacity of one million but less than two
32 million, the remittance is equal to fifty percent of the amount of tax
33 paid. For warehouses with square footage of two hundred thousand or
34 more(~~, other than cold storage warehouses,~~) and for grain elevators
35 with bushel capacity of two million or more, the remittance is equal to
36 one hundred percent of the amount of tax paid for qualifying
37 construction, materials, service, and labor, and fifty percent of the
38 amount of tax paid for qualifying material-handling equipment and

1 racking equipment, and labor and services rendered in respect to
2 installing, repairing, cleaning, altering, or improving the equipment.
3 (~~For cold storage warehouses with square footage of twenty five~~
4 ~~thousand or more, the remittance is equal to one hundred percent of the~~
5 ~~amount of tax paid for qualifying construction, materials, service, and~~
6 ~~labor, and one hundred percent of the amount of tax paid for qualifying~~
7 ~~material handling equipment and racking equipment, and labor and~~
8 ~~services rendered in respect to installing, repairing, cleaning,~~
9 ~~altering, or improving the equipment.~~)

10 (b) The department shall determine eligibility under this section
11 based on information provided by the buyer and through audit and other
12 administrative records. The buyer shall on a quarterly basis submit an
13 information sheet, in a form and manner as required by the department
14 by rule, specifying the amount of exempted tax claimed and the
15 qualifying purchases or acquisitions for which the exemption is
16 claimed. The buyer shall retain, in adequate detail to enable the
17 department to determine whether the equipment or construction meets the
18 criteria under this section: Invoices; proof of tax paid; documents
19 describing the material-handling equipment and racking equipment;
20 location and size of warehouses and grain elevators; and construction
21 invoices and documents.

22 (c) The department shall on a quarterly basis remit exempted
23 amounts to qualifying persons who submitted applications during the
24 previous quarter.

25 (4) Warehouses, grain elevators, and material-handling equipment
26 and racking equipment for which an exemption, credit, or deferral has
27 been or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or
28 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
29 remittance under this section. Warehouses and grain elevators upon
30 which construction was initiated before May 20, 1997, are not eligible
31 for a remittance under this section.

32 (5) The lessor or owner of a warehouse or grain elevator is not
33 eligible for a remittance under this section unless the underlying
34 ownership of the warehouse or grain elevator and the material-handling
35 equipment and racking equipment vests exclusively in the same person,
36 or unless the lessor by written contract agrees to pass the economic
37 benefit of the remittance to the lessee in the form of reduced rent
38 payments.

1 **Sec. 13.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to
2 read as follows:

3 (1) Wholesalers or third-party warehouse owners who own or operate
4 warehouses or grain elevators, and retailers who own or operate
5 distribution centers, and who have paid the tax levied under RCW
6 82.12.020 on:

7 (a) Material-handling equipment and racking equipment and labor and
8 services rendered in respect to installing, repairing, cleaning,
9 altering, or improving the equipment; or

10 (b) Materials incorporated in the construction of a warehouse or
11 grain elevator, are eligible for an exemption on tax paid in the form
12 of a remittance or credit against tax owed. The amount of the
13 remittance or credit is computed under subsection (2) of this section
14 and is based on the state share of use tax.

15 (2)(a) A person claiming an exemption from state tax in the form of
16 a remittance under this section must pay the tax imposed by RCW
17 82.12.020 to the department. The person may then apply to the
18 department for remittance of all or part of the tax paid under RCW
19 82.12.020. For grain elevators with bushel capacity of one million but
20 less than two million, the remittance is equal to fifty percent of the
21 amount of tax paid. For warehouses with square footage of two hundred
22 thousand or more (~~(, other than cold storage warehouses,)~~) and for grain
23 elevators with bushel capacity of two million or more, the remittance
24 is equal to one hundred percent of the amount of tax paid for
25 qualifying construction materials, and fifty percent of the amount of
26 tax paid for qualifying material-handling equipment and racking
27 equipment. (~~(For cold storage warehouses with square footage of
28 twenty five thousand or more, the remittance is equal to one hundred
29 percent of the amount of tax paid for qualifying construction,
30 materials, service, and labor, and one hundred percent of the amount of
31 tax paid for qualifying material handling equipment and racking
32 equipment, and labor and services rendered in respect to installing,
33 repairing, cleaning, altering, or improving the equipment.)~~)

34 (b) The department shall determine eligibility under this section
35 based on information provided by the buyer and through audit and other
36 administrative records. The buyer shall on a quarterly basis submit an
37 information sheet, in a form and manner as required by the department
38 by rule, specifying the amount of exempted tax claimed and the

1 qualifying purchases or acquisitions for which the exemption is
2 claimed. The buyer shall retain, in adequate detail to enable the
3 department to determine whether the equipment or construction meets the
4 criteria under this section: Invoices; proof of tax paid; documents
5 describing the material-handling equipment and racking equipment;
6 location and size of warehouses, if applicable; and construction
7 invoices and documents.

8 (c) The department shall on a quarterly basis remit or credit
9 exempted amounts to qualifying persons who submitted applications
10 during the previous quarter.

11 (3) Warehouse, grain elevators, and material-handling equipment and
12 racking equipment for which an exemption, credit, or deferral has been
13 or is being received under chapter 82.60, (~~82.617~~) 82.62, or 82.63
14 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
15 remittance under this section. Materials incorporated in warehouses
16 and grain elevators upon which construction was initiated prior to May
17 20, 1997, are not eligible for a remittance under this section.

18 (4) The lessor or owner of the warehouse or grain elevator is not
19 eligible for a remittance or credit under this section unless the
20 underlying ownership of the warehouse or grain elevator and material-
21 handling equipment and racking equipment vests exclusively in the same
22 person, or unless the lessor by written contract agrees to pass the
23 economic benefit of the exemption to the lessee in the form of reduced
24 rent payments.

25 (5) The definitions in RCW 82.08.820 apply to this section.

26 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.08 RCW
27 to read as follows:

28 (1) The tax levied by RCW 82.08.020 does not apply to sales to
29 persons who are subject to tax under RCW 82.04.260(12) of: (a)
30 Materials used to package canned salmon including, but not limited to,
31 clear wrap, boxes, tape, and box labels; and (b) glue, ink, or similar
32 tangible personal property, that: (i) Affixes the label to the labeled
33 product; or (ii) becomes a component of the label.

34 (2) The exemption is available only if the buyer provides the
35 seller with an exemption certificate in a form and manner prescribed by
36 the department. The seller must retain a copy of the certificate for
37 the seller's files.

1 NEW SECTION. **Sec. 15.** A new section is added to chapter 82.12 RCW
2 to read as follows:

3 The provisions of this chapter do not apply with respect to the use
4 by persons who are subject to tax under RCW 82.04.260(12) of: (1)
5 Materials used to package canned salmon including, but not limited to,
6 clear wrap, boxes, tape, and box labels; and (2) glue, ink, or similar
7 tangible personal property, that: (a) Affixes the label to the labeled
8 product; or (b) becomes a component of the label.

9 **Sec. 16.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to
10 read as follows:

11 (1) Persons required to file surveys under RCW 82.04.4452,
12 82.32.610, or 82.74.040 must electronically file with the department
13 all surveys, returns, and any other forms or information the department
14 requires in an electronic format as provided or approved by the
15 department(~~(, unless the department grants relief under subsection (2)~~
16 ~~of this section)).~~ As used in this section, "returns" has the same
17 meaning as "return" in RCW 82.32.050.

18 (2) (~~Upon request, the department may relieve a person of the~~
19 ~~obligations in subsection (1) of this section if the person's taxes~~
20 ~~have been reduced a cumulative total of less than one thousand dollars~~
21 ~~from all of the credits, exemptions, or preferential business and~~
22 ~~occupation tax rates, for which a person is required to file an annual~~
23 ~~survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,~~
24 ~~82.32.560, 82.60.070, or 82.63.020.~~

25 (3) ~~Persons who no longer qualify for relief under subsection (2)~~
26 ~~of this section will be notified in writing by the department and must~~
27 ~~comply with subsection (1) of this section by the date provided in the~~
28 ~~notice.~~

29 (4)) Any survey, return, or any other form or information required
30 to be filed in an electronic format under subsection (1) of this
31 section is not filed until received by the department in an electronic
32 format.

33 (3) The department may waive the electronic filing requirement in
34 subsection (1) of this section for good cause shown.

35 **Sec. 17.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to
36 read as follows:

1 (1) If the department finds that the failure of a taxpayer to file
2 an annual survey under RCW 82.04.4452, 82.32.610, or 82.74.040 by the
3 due date was the result of circumstances beyond the control of the
4 taxpayer, the department shall extend the time for filing the survey.
5 Such extension shall be for a period of thirty days from the date the
6 department issues its written notification to the taxpayer that it
7 qualifies for an extension under this section. The department may
8 grant additional extensions as it deems proper.

9 (2) In making a determination whether the failure of a taxpayer to
10 file an annual survey by the due date was the result of circumstances
11 beyond the control of the taxpayer, the department shall be guided by
12 rules adopted by the department for the waiver or cancellation of
13 penalties when the underpayment or untimely payment of any tax was due
14 to circumstances beyond the control of the taxpayer.

15 NEW SECTION. **Sec. 18.** (1) Except as otherwise provided in this
16 section, this act takes effect July 1, 2006.

17 (2) Sections 6 through 9 and 11 of this act take effect July 1,
18 2007.

19 (3) Sections 12 and 13 of this act take effect July 1, 2012.

20 NEW SECTION. **Sec. 19.** Section 10 of this act expires July 1,
21 2007.

22 NEW SECTION. **Sec. 20.** Section 11 of this act expires July 1,
23 2012.

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